

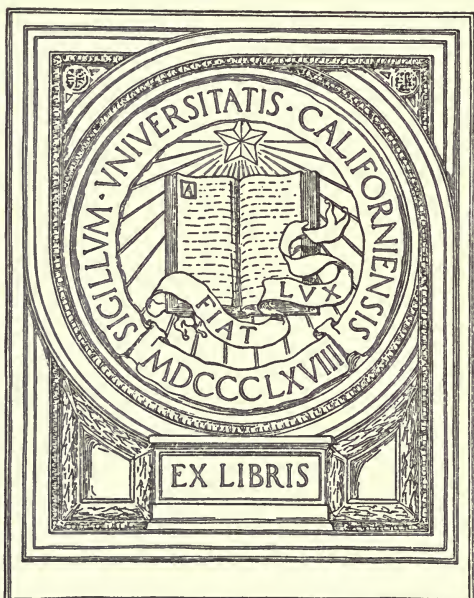
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*Town Clerk Addison*

# JOURNAL

OF THE

*Vermont.* COUNCIL OF CENSORS, 1813-1814.

AT THEIR SESSIONS

IN

JUNE AND OCTOBER, 1813,

AND

JANUARY, 1814.

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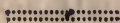
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# JOURNAL.



THE Council of Censors, elected on the last Wednesday of March, A. D. 1813, agreeably to the forty-third section of the Constitution of the State of Vermont, and an act of the General Assembly of said State, assembled at the State-house in Montpelier, on the first Wednesday of June, (being the 2d day of the month) in the year of our Lord one thousand eight hundred and thirteen, and in the thirty-seventh year of the Independence of the United States ;—when the following named persons appeared, produced credentials of their election, and took their seats, to wit :—

*The Honorable* ISAAC TICHENOR,

*The Honorable* NATHANIEL CHIPMAN,

WILLIAM HALL, JR.

CHARLES MARSH,

ISAAC BAYLEY,

LUTHER JEWETT,

EBENEZER CLARK,

ELIJAH STRONG,

NICHOLAS BAYLIES, &

ROBERT TEMPLE,

} *Esquires.*

The above named members constituting a quorum of said Council, they proceeded to the choice of a President and Secretay ;—when, the ballots having been taken, sorted and counted, it appeared that the Honorable Isaac Tichenor was elected President of said Council, and Robert Temple was elected Secretary.

Mr. Marsh moved the following Resolution, which was read and passed, to wit :

*In Council of Censors,*  
*Montpelier, June 2d, 1813. }*

*Resolved*, That the Rev. Chester Wright be requested to attend this Council during the present session, as Chaplain, and that the meeting of the Council be opened every day with prayer, at 9 o'clock in the morning.

On motion of Mr. Marsh, the following Resolution was read and adopted :

*Resolved*, That the Sheriff of the County of Jefferson be, and he hereby is requested, to attend by himself or deputy, the meeting of this Council, during its present session.

The Council adjourned until 9 o'clock to-morrow morning.

*Thursday, 3d June 1813, 9 o'clock A. M.*

The Council met pursuant to adjournment.

On motion of Mr. Chipman,

*Resolved*, That a committee of three members be appointed, to be denominated a *Committee of Arrangement*, to propose and report such business for the consideration of the Council as they may think proper.

Members chosen, Messrs. Chipman, Marsh and Tichenor.

The Council adjourned until 2 o'clock this afternoon.

At 2 o'clock P. M. the Council met pursuant to adjournment.

Mr. Chipman, from the Committee of Arrangement, made the following Report, in part :

*In Council of Censors, June 3d, 1813.*

The Committee to whom was referred the arrangement of business which ought to be taken up by the Council, Report,



That the said Council ought to enquire,

*First*—Whether all the statutes now in force are consistent with the various provisions of the constitution.

Under this head they ought to enquire,

1st, Into the constitutionality of the act establishing a State Bank, and the various acts on the same subject.

2d, They ought to enquire into, and examine the act entitled “an act to prevent intercourse with the enemies of this and the United States.”

3d, They ought to enquire into the constitutionality of the act entitled “an act to provide for the raising a volunteer corps for the service of the United States.”

4th, Into the constitutionality of the act, entitled “an act suspending civil process against the persons and property of the officers and soldiers of this State, while in service.”

*Second*—Whether the public taxes have been justly laid and collected in all parts of the State.

*Third*—In what manner the public monies have been disposed of.

Under this head they ought to enquire,

1st, Into the expenditure of the public monies in the management of the State Bank.

2d, Into the expenditure of monies appropriated for the building of a State prison.

3d, Into the expenditure of public monies by various acts of the Legislature in making particular appropriations.

*Fourth*—They ought to enquire whether the laws have been duly executed.

Under this head they ought to enquire,

1st, Whether the military power has not, in repeated instances, violated the sacred rights of civil liberty, of individual citizens;—and whether the executive authority of this State have taken proper measures, as guardians of

the rights of the people, to discountenance and prevent such encroachments.

2d, Whether many of the County Courts have not, in derogation of the rights of creditors, wantonly abused the discretion confided to them by the laws, in setting out liberties of gaol yards.

*Fifth*—They ought to enquire whether it is the duty of the Council to recommend any, and what alterations or amendments in the Constitution.

1st, Particularly the introduction of a Senate as a co-ordinate branch of the Legislature.

2d, To designate the powers and duties of the Governor; to provide for a Council of Revision on laws to be passed.

3d, To provide for a different mode of appointments to office—particularly the appointments of Judges of the Supreme Court; and whether they ought by the Constitution to hold their offices during good behaviour; and yet be removable by a concurrent resolution of both houses;—and whether their compensation ought not to be fixed.

4th, Whether it be necessary to continue the Court of Chancery; and if continued, whether it ought not to be a separate court.

5th, Whether it would not be proper to organize the County Courts in such manner as to divide the State into circuits, with a Chief Justice to preside in each Court in his circuit, and to hold his office on the same tenure as the Judges of the Supreme Court; and to fix the tenure of office for the Assistant Judges and Justices of the Peace, &c. &c.

All which is submitted by

N. CHIPMAN, *for Committee.*

Daniel Farrand, Esq. appeared, produced credentials of his election as a member of this Council, and took his seat.



The Council adjourned until 9 o'clock to-morrow morning.

*Friday, 4th June, 1813, 9 o'clock A. M.*

The Council met pursuant to adjournment.

The Committee of Arrangement made the following additional Report :

*In Council of Censors, June 4, 1813.*

The Committee to whom was referred the arrangement of business which ought to be taken into consideration by the Council, further Report :

That the Council ought to enquire into the expediency of making constitutional provision for securing to the citizens of this State the privilege of the writ of *Habeas Corpus*.

N. CHIPMAN, *for Committee.*

Which additional Report was read and accepted.

The Report of the Committee of Arrangements was taken up and read by paragraphs ; when, that part of the Report which relates to the enquiry whether all the statutes now in force, are consistent with the various provisions of the Constitution, was referred to a committee of two, consisting of Messrs. Farrand and Edmonds.

On that part of the Report which relates to the enquiry whether the public taxes have been justly laid and collected in all parts of the State ; the President is requested to communicate with the Treasurer of this State on that subject, with a view to obtain the necessary information.

On that part of the subject of said Report, which relates to the enquiry, in what manner the public monies have been disposed of, Mr. Farrand introduced the following Resolution, which was read and adopted :

*Resolved*, 'That a committee of two be appointed to enquire into the expenditure of public monies during the last septenary ; and that said committee have power to call on the Treasurer, and all other

officers of this State, to furnish such documents as they may deem necessary to elucidate the subject.

Members chosen, Messrs. Baylies and Marsh.

That part of the Report which relates to the enquiry whether the laws have been duly executed, was referred to a committee of three, consisting of Messrs. Farrand, Temple and Baylies.

That part of said Report which relates to the proposal of alterations and amendments to the Constitution, was, on motion of Mr. Marsh, referred to a committee of two. Members chosen, Messrs. Chipman and Temple.

A letter was received, directed to the Council of Censors, dated Jericho, June 1, 1813, signed John Thompson, complaining of the Judges of the Supreme Court, &c. which was read.

The Council adjourned to the second Thursday of October next, to meet at 10 o'clock A. M. at the State-House.

On the second Thursday of October, (being the 14th day of the month) A. D. 1813, several members of the Council of Censors met at Montpelier, pursuant to adjournment ; and a quorum not being present, adjourned until to-morrow morning, at 9 o'clock.

*Friday, 15th Oct. 1813, 9 o'clock A. M.*

The Council met pursuant to adjournment ; and there not being a quorum present, adjourned until to-morrow morning at 9 o'clock.

*Saturday, Oct. 16, 1813, 9 o'clock, A. M.*

The Council met pursuant to adjournment, and a quorum appeared.

A letter was received from William Barton, dated Danville Gaol, Oct. 12, 1813, complaining of the conduct of the Judges of the Supreme Court ; which was read.

A communication was received from Joseph H. Ellis, complaining of the conduct of the Judges of

the Supreme Court, and sundry other officers of the Government ; which was read.

Mr. Hall introduced the following Resolution, which was read and adopted, to wit :

*In Council of Censors, Oct. 16, 1813.*

*Resolved,* That this board will meet the two branches of the Legislature in the Representatives' room, at the opening of the House in the morning, for the purpose of attending prayers ; and that the meeting of this board be at nine o'clock in the morning, during the present session.

The Council adjourned until two o'clock this afternoon.

At two o'clock P. M. the Council met pursuant to adjournment.

On motion of Mr. Marsh, Mr. Bayley was added to the committee on that part of the Report of the *Committee of Arrangement* which relates to the enquiry, whether all the statutes now in force are consistent with the various provisions of the constitution.

To give time to the several committees, the Council adjourned until Monday next at 9 o'clock A. M.

*Monday, 18th Oct. 9 o'clock A. M.*

The Council met pursuant to adjournment ; and none of the committees being ready to report, adjourned to 2 o'clock this afternoon.

At 2 o'clock P. M. the Council met agreeably to adjournment—and after some time spent in session adjourned until to-morrow morning.

*Tuesday, 19th Oct. 9 o'clock A. M.*

Mr. Chipman moved, that the committee to whom was referred that part of the Report of the *Committee of Arrangement* which relates to the proposal of alterations and amendments to the Constitution, be discharged ; which passed in the negative.

The Council adjourned until to-morrow morning to give time to the several committees to make report.



*Wednesday, 20th Oct. 9 o'clock A. M.*

The Council met agreeably to adjournment.

The Committee appointed to enquire whether all the statutes of this State, now in force, are consistent with the various provisions of the Constitution, made the following Report :

*To the Honorable the COUNCIL OF CENSORS,  
now convened at Montpelier.*

YOUR Committee appointed to enquire whether all the statutes of this State, now in force, are consistent with the various provisions of the Constitution ;—Report in part :

That the act entitled “an act to prevent intercourse with the enemies of this and the United States, on the northern frontiers,” passed the 6th day of November, A. D. 1812, is, in the opinion of this committee, unconstitutional in the following particular :

1st. It appears to this committee, that this is a subject on which the Legislature of this State have no right to act ; the whole power to regulate commerce and the intercourse with foreign nations, both in peace and war, have been delegated to the Congress of the United States.

2d. The second section of said act authorises any one who may suspect that another is driving cattle, or carrying property to the province of Lower Canada, to apprehend such person without warrant, and him detain, until a warrant can be obtained : which your committee conceive to be a direct violation of the 11th article of the Bill of Rights.

3d. That the third section of the said act, deprives the person whose property may be siezed under the same, of his right to trial by jury, or even of any trial, by making no provision for giving notice of the seizure, or of his property being libelled, and makes it the duty of the Justices before whom the same is libelled, to proceed immediately to condemn the same.

4th. By the fourth section of said act, every justice of the peace, within his jurisdiction, is authorised, *without warrant*, to inspect the trunks or papers of any person travelling to or from the province of Canada, or elsewhere, under suspicious circumstances, and open the same, if necessary, and to detain such papers as he may deem improper to be carried to or from said province ; whereas, by the 11th article of the Bill of Rights, it is declared, "that the people have a right to hold themselves, their papers, and possessions, free from search or seizure," &c. : for which reasons your committee are of opinion that the said act ought to be publicly censured by this Council ; and that the repeal thereof be recommended to the Legislature.

Your Committee further report, that the act entitled 'an act, suspending civil process against the persons and property of the officers and soldiers of this State, while in service, passed the 6th of November, 1812, is contrary to the Constitution of this State ; inasmuch as the said law suspends the right of action, which every citizen ought to have for redress of any wrongs or trespasses which may be committed or done by that particular class of people, and tend not only to raise the military over the civil authority, but actually to put the citizens under the control of the officers and soldiers who may be stationed in this State ;—wherefore your committee are of opinion, that the last mentioned act ought also to be publicly censured, and the repeal thereof recommended to the Legislature.

Your Committee have examined the laws passed at the last session of the Legislature, to provide for the raising a volunteer corps, and although they believe those acts are as exceptionable as those before mentioned, yet as they have expired, and ceased to operate, your committee have not thought it worth while to notice them any farther. All which is submitted by

DANIEL FARRAND,  
ISAAC BAYLEY.

Oct. 20th, 1813.



The foregoing Report having been read, was ordered to lie on the table.

The Council adjourned until 2 o'clock P. M.

At 2 o'clock P. M. the Council met according to adjournment.

Mr. Chipman, from the committee to whom was referred that part of the Report of the *Committee of Arrangement*, which relates to the proposal of alterations and amendments to the Constitution, made Report :

That in the opinion of your committee, it will be expedient to propose amendments to the following effect :

1st. To propose a Senate in lieu of the present Executive Council, to be, with the House of Representatives, a co-ordinate branch of the Legislature.

2d. The Senate to be composed of members elected from each County. The Freemen of any County, which shall at any time be found to contain, agreeably to the census of the United States, *not less than seven thousand* inhabitants, shall elect *two* Senators of such County ; and the Freemen of each County which shall in like manner be found to contain *less than seven thousand* inhabitants, shall be entitled to elect *one* Senator for such County. To make a provision for ascertaining and giving notice to the Senators who shall be chosen at the first election ; to be thereafter regulated by law. That a majority of the Senators elected constitute a quorum. The Senate to have the like power to decide on the elections and qualifications, and to expel any of its members, as is provided in the case of the House of Representatives, and to appoint its own officers. The Lieut. Governor to be President of the Senate, except when he shall exercise the office of Governor ; in which case, and when the office shall be vacant, the Senate to appoint one of its own members President *pro tempore*.

The Lieut. Governor, when presiding in the Senate, to have a casting, but no other vote.

3d. The Governor and Lieut Governor to be elected in the manner prescribed by the constitution and laws of the State; to hold their respective offices for one year, from the day of declaring their election, until the first day inclusive of the next annual session of the Legislature.

4th. Hereafter, the person having the greatest number of legal votes for Governor, shall be declared duly elected.

5th. If there shall at any time be no due election by the Freemen, of Governor or Lieut. Governor, the Senate, when organized, and the House of Representatives, shall, by joint ballot, elect to the office of Governor or Lieut. Governor, as the case may be, one of the two candidates for those offices, respectively, for whom the greatest number of legal votes shall have been returned. In the absence of the Governor, or in cases of inability or vacancy in the office, the Lieut. Governor shall exercise the powers of Governor; and provision shall be made by law for designating the officer, who, in the absence, inability, or vacancy in the offices of both Governor and Lieut. Governor, shall exercise the office of Governor.

6th. With a proviso, that no person shall be eligible to the office of Governor or Lieut. Governor, or to be a Senator, or Representative, unless he shall be a Freeman of the State, shall have been five years a citizen of the United States, and shall have resided in this State three years next before his election, the last year of which in case of a Senator, shall have been in the County, and in case of a Representative, in the town, for which he shall be elected.

7th. That a Senator shall be incapable of holding any of the following offices or places, to wit:

or any office in the Judiciary which is to be hold-

en during good behaviour ; but the acceptance of any of the places or offices before mentioned, shall vacate his seat in the Senate.

8th. In addition to the command in chief of the Militia, and the ordinary and constituted powers of the Executive, which are hereafter to be vested in the Governor, that he shall nominate, and by and with the advice of the Senate, appoint all Judges in the courts of law and chancery, Sheriffs, High Bailiffs, and Justices of the Peace, Major Generals and Brigadier Generals in the Militia, and in like manner to nominate and appoint all other officers under the constitution and laws of this State, for whose appointments provision shall not be otherwise made by law, or by the constitution as amended.

9th. To provide for a court of chancery distinct from the courts of law, with general jurisdiction in causes proper for a court of Equity. The Chancellor to hold his office on the same tenure, removable in the same manner as the Judges of the Supreme Court ; and to be in like manner secure in respect to his compensation.

10th. The Judges of the Supreme Court to hold their offices, respectively, during good behavior ; removable nevertheless, by a concurrent resolution of the Senate and House of Representatives, passed by a majority of two thirds of each House.

11th. Each Judge shall receive a compensation to be fixed by law, and which shall not be diminished during his continuance in office.

12th. The Chief Judges of the several Circuits of the County Courts, or Common Pleas, whenever such Courts shall be established in lieu of the present system of County Courts, shall hold their respective offices on the same tenure, and removable in the same manner, as is provided in the case of Judges of the Supreme Court.

13th. All other Judges of any of the Courts of



law, Judges of Probate and Justices of the Peace, to hold their offices for seven years from the time of their respective appointments, and no longer, unless re-appointed ; subject to be removed as in the case of Judges of the Supreme Court.

14th. To provide that the privilege of the writ of *Habeas Corpus* shall not be suspended ; and that provision shall be made by law to render it an expeditious and effectual remedy in all cases proper therefor.

15th. To provide that the Governor, with the Judges of the Supreme Court, and Chancellor, when there shall be such officer, shall be a council of revision ; to whom all acts shall, before they become laws, be submitted for revision ; and who, if they shall deem any act inexpedient, improper, or unconstitutional, shall, within a time to be prescribed, return such act, with their objections in writing, to the House in which the same originated ; and such act shall not become a law, unless the same shall be re-passed by two thirds of the members present in each House.

16th. The Governor to have the power of calling the Legislature to meet on special occasions, and to adjourn the two Houses if they cannot agree on a time of adjournment.

All which is humbly submitted, by  
N. CHIPMAN, for Committee.

The foregoing Report having been read, was accepted.

Mr. Marsh called up the Report of the Committee to enquire whether all the statutes of this State now in force, are consistent with the various provisions of the Constitution, which having been again read, was accepted ; and the following Resolution was introduced and passed, to wit :—

*In Council of Censors, Oct. 20, 1813.*

*Resolved,* That Messrs. Marsh and Farrand be a Committee to report to the Council resolutions,

recommending the repeal of the Act entitled "An Act to prevent intercourse with the enemies of this and the United States, on the northern frontier," passed 6th Nov. 1812; and the Act entitled "An Act to suspend process against the persons and property of the officers and soldiers of this State, while in service," passed the day last aforesaid, assigning reasons for repealing each Act respectively.

On motion of Mr. Chipman, to-morrow morning is assigned to take up the Report of the Committee on the proposal of alterations and amendments to the Constitution.

The Council adjourned until 9 o'clock to-morrow morning.

*Thursday, Oct. 21, 1813—9 o'clock A. M.*

The Council met according to adjournment.

Mr. Marsh, from the Committee appointed yesterday to report to the Council Resolutions, recommending to the Legislature the repeal of certain Acts—made a Report in part, which was accepted; and the said Report having been read by paragraphs, and having undergone sundry amendments, was adopted in the following words:

*In Council of Censors, Oct. 21, 1813.*

*Resolved,* That the act of the Legislature of this State, entitled "An act suspending civil process against the persons and property of the officers and soldiers of this State, while in service," passed on the 6th Nov. last, is subversive of the rights and privileges of the citizens of this and the United States; and its various provisions are made in violation of the letter and spirit of the constitution of the United States, and the constitution of this State.

It is a violation of the constitution of the United States,

In that the said act provides, "that no writ of summons or attachment against the body or prop-

erty of any officer or soldier belonging to this state, while in actual service, shall be had or prosecuted, nor any judgment rendered thereon; nor any writ or writs of execution issued after the passing of said act, against any such officer or soldier, on any judgment or judgments already rendered."

Whereas the said constitution provides that "the constitution and the laws of the United States, which shall be made in pursuance thereof, shall be the supreme law of the land: and the judges in every state shall be bound thereby, any thing in the constitution and laws of any state to the contrary notwithstanding:" and the said laws of the United States, made in pursuance of the said constitution, do confer on the citizens of this and the United States, the right of suing the citizens of this state, both officers and soldiers, in various instances in the said laws enumerated.

It is a violation of the said constitution,

In that the subject matter thereof is, by the said constitution, confided to the legislature of the United States, which had, before the passing of the said act, acted on the subject in such manner, that whatever privilege of suing the officers and soldiers, was not taken away by the act of congress, is virtually secured to the citizens of this and the United States, and cannot be affected by any act of any particular state.

It is a violation of the said constitution,

In that its direct tendency is to impair the judicial power of the United States, as secured to them in the second section of the third article of the said constitution, and, in pursuance thereof, delegated to the courts of the United States, by the various acts of Congress.

It is a violation of the said constitution,

In that it is a law impairing the obligation of contracts, contrary to the provisions of the tenth



section of the first article of the said constitution.

It is a violation of the constitution of this state,

In that it exempts the military from the constitutional subordination to the civil power ; and subjects the citizens of this and the United States to injury, abuse, and deprivation of civil liberty, by the said officers and soldiers, and leaves them without redress by suits at the common law, contrary to the sixteenth article in the bill of rights of the said constitution.

It is a violation of the said constitution,

In that it is an unnecessary delay, and even denial of recourse to the laws and of justice, to the citizens of this and the United States, contrary to the fourth article of the said bill of rights.

It is a violation of the said constitution,

In that it has a tendency to deprive the citizens of this state, and the citizens of the United States, who come among us, of the unalienable rights of enjoying and defending life and liberty ; acquiring, possessing, and protecting property, and pursuing happiness and safety, contrary to the first article of the said bill of rights—Therefore,

*Resolved*, That this council, as watchmen upon the walls of the political safety and happiness of the people of the state of Vermont, view, with deep concern, the multiplied aggressions of the military power, both officers and soldiers, during the year past, upon the civil rights, privileges, and property of the peaceable, unoffending, and defenceless citizens of this state.

*Resolved*, That while we witness, not only the existence of the said aggressions, but perceive that they are not only permitted, but, through the impunity afforded to the aggressors, have even been invited by the solemn act of the legislature of a free, sovereign, and independent people, in the provisions of the act aforesaid ;—*not to remonstrate*,

would be to join in overthrowing the liberties of our country, and betraying a trust reposed in us by the constitution of this state.

*Resolved*, That this council do earnestly recommend to the legislature of this state, now in session, the immediate and unqualified repeal of the said act—and that the secretary of this board forthwith transmit a copy of these resolutions to the speaker of the house of representatives, to be laid before that honorable body for their consideration.

The petition of William Gibson and others, inhabitants of Ryegate, Barnet and Topsham, who “profess the Presbyterian religion as it has been professed in the purest times of reformation,” and who “look upon that form of church government to secure the rights of God and man better than any other;”—and praying that the constitution may be so amended, as that “*the scriptures of the Old and New Testament shall be declared the supreme rule in all things, and paramount to all laws and constitutions; and that no law, contrary to, or inconsistent with the same, shall be binding on the conscience of any Christian;*”—was received and read, and laid on the table.

The Council adjourned until 2 o'clock this afternoon.

At two o'clock P. M. the Council met according to adjournment.

On motion of Mr. Marsh, Messrs. Jewett and Hall are appointed a committee to examine the account of orders drawn on the Treasurer of this State by the Auditor of Accounts for the last seven years;—and make report to this Council.

The Council adjourned until to-morrow morning.

*Friday, Oct. 22,—9 o'clock A. M*

The Council met according to adjournment.

On motion of Mr. Hall, the Council took up the proposed amendments to the constitution, as re-



ported by the Committee on that subject;—and having spent considerable time in the discussion of the same, adjourned to 2 o'clock this afternoon.

At two o'clock P. M. the Council met pursuant to adjournment, and having spent some time on the proposed amendments to the constitution, adjourned until to-morrow morning.

*Saturday, Oct. 23,—9 o'clock A. M.*

The Council met according to adjournment, and took up the proposed amendments to the constitution, as reported by the Committee appointed on that subject.

The second proposition was, on motion of Mr. Marsh, referred back to the Committee, to make a new arrangement for the election of a Senate.

The fourth proposition as reported by the Committee, was ordered to be stricken out.

After considerable time spent in the discussion of said report, the Council adjourned until 2 o'clock this afternoon.

At two o'clock P. M. the Council met pursuant to adjournment.

Mr. Farrand, from the Committee appointed by resolution on the 20th inst. reported the following resolutions :

*In Council of Censors, Oct. 23, 1813.*

*Resolved,* That having examined an act of the Legislature of the State of Vermont, passed the 6th day of Nov. 1812, entitled "An act to prevent intercourse with the enemies of this and the United States, on the northern frontier," this Council is of opinion, that the said act is contrary to the various provisions in the constitutions of this and the United States.

It is contrary to the provisions of the constitution of the United States, in this :—

That by the said constitution of the U. States, the power to regulate commerce with foreign nations, and to regulate captors both by land and

water, are delegated to the congress of the United States ;—and the before mentioned act seems to be an attempt to wrest this power from congress, and place it in the hands of the legislature of this state, by regulating commerce with the province of Canada ; and by authorizing captors both by land and by water.

It is contrary to the provisions of the constitution of this state, in this :—

By that constitution, the right to trial by jury is secured to every citizen, in cases proper to be tried by jury : whereas this act deprives any person, whose property may be seized under the said act, of the right to such trial, and even of any trial, by authorizing any three justices in the state, one of whom to be a judge of the county court, without regard to time or place, immediately on receiving a libel of said property, to proceed and condemn the same, without any notice that his property has been seized and libelled.

Although this council feel a deep concern at this departure from the rules established by our constitution, and by the uniform practice for a series of years, in settling and establishing the rights of property : yet they feel it to be of little moment when compared with the violations of personal liberty, which appear in various parts of this act.

We find by the second section of the said act, that any citizen of this or the United States, while about his lawful and necessary business, may, on the suspicion, or pretended suspicion, of any one, be deprived of his liberty, and held in durance until a warrant can be obtained to take him before a magistrate ; *there*—not to answer for any crime committed, but to give security that he will not be guilty of the crime, which the person apprehending him, suspected he was about to commit.

We find by the fourth section of the act under



consideration, that every person travelling through this state, under suspicious circumstances, is liable to have his trunk opened and searched—his papers, of whatever kind, searched and seized, by any and every justice of the peace, within whose jurisdiction he may happen to be ; and this without any warrant obtained therefor.

We need only refer you to the eleventh article of the bill of rights to prove the repugnancy of this act to our sacred constitution.

This council, acting as faithful censors and guardians of the liberties of the people, cannot refrain from observing, that such acts of the legislature have a demoralizing influence on society ;—tend to let loose one class of citizens against the other ;—to produce recriminations and revenge ; and to introduce discord and confusion in this once happy and peaceful state.—Therefore,

*Resolved*, That the speedy and unqualified repeal of said act, be recommended to the legislature ; and that the secretary to this board be directed to transmit a copy hereof to the speaker of the house of assembly, to be laid before that honorable body.

The foregoing reported resolutions having been read, were adopted.

Mr. Marsh introduced a resolution declaring an act of the legislature, directing the deed of Job and Theoda Wood to be given in evidence, to be unconstitutional ; which was read, and ordered to lie on the table.

The proposed amendments to the constitution were again taken up ; and after considerable discussion thereof, were referred back to the committee on that subject, to report specific articles.

On motion of Mr. Chipman, Messrs. Hall and Farrand were added to the committee on the proposed amendments to the constitution.

The Council adjourned until Monday next.

*Monday, Oct. 25, 1813.—9 o'clock A. M.*

The Council met according to adjournment, and took up the resolutions introduced on Saturday last by Mr. Marsh; which having been read, passed in the words following, to wit:

*In Council of Censors, Oct. 25, 1813.*

*Resolved,* That the act entitled “An act directing the deed of Job and Theoda Wood to be given in evidence,” passed the 20th October, 1812, is unconstitutional, and ought not to have been passed.

The said act recites, that, “whereas Job Wood, and Theoda Wood, wife of said Job, late of Bennington, in the county of Bennington, did execute a deed, granting all their right and title unto the estate, both real and personal, of Henry Walbridge, 2d. late of said Bennington, deceased, to Stebbins Walbridge, of said Bennington, dated the 26th day of March, 1800, which deed was, on the 14th day of March, 1801, at said Bennington, duly acknowledged by the said Job, as also by the said Theoda, separately and apart from her husband, as the law requires;—that the same was executed freely, and without any compulsion of her husband; a certificate of which said acknowledgment was then and there made upon the said deed, by Samuel Safford, then councillor and justice of the peace, before whom the said acknowledgment was made, the said Job Wood and Theoda Wood, his wife, personally appeared, and as the law directs, severally acknowledged the same to be their free act and deed, before said justice:—and whereas doubts have arisen whether the said deed could be read in evidence; which to remove, the said act enacts—“That the said deed herein before described be, and the same is hereby directed to be good and valid, and that the same shall, to all intents and purposes, have the same force and effect as if the certificate of acknowledgment had been made in the usual form.”



The said act is unconstitutional—In that it appears in the recitative clause of the said act, that the said deed, for want of a proper acknowledgment endorsed thereon, and recorded at length with the said deed, was, by the existing law of this state, absolutely void; and that in consequence thereof the title to the real estate described in the said deed, remained vested in the said Theoda Wood, and might have become, at the time of passing the said act, vested in her heirs, or subsequent grantee.

The enacting clause of the said act therefore tends to divest one individual of a private right and title, and to invest the same in another individual, by a sovereign act of the legislature:—whereas the constitution does not confer on the legislature any power to decide on rights of individuals; and every attempt thus to decide on, and destroy the rights of individuals, by the legislature, is an assumption of power not warranted by the constitution.—Therefore,

*Resolved*, That this Council do recommend to the legislature now in session, to repeal the said act; and that the secretary of this board be directed to transmit, forthwith, a copy of these resolutions to the speaker of the house of representatives, for the consideration of that honorable body.

The Council adjourned to 2 o'clock this afternoon.

At two o'clock P. M. the Council met agreeably to adjournment,—and after having had under consideration the proposed amendments to the constitution, with a view of instructing the committee on that subject; adjourned until to-morrow morning.

*Tuesday, Oct. 26.—9 o'clock A. M.*

The Council met according to adjournment,—and to give time to the several committees, adjourned until 2 o'clock this afternoon.



At two o'clock P. M. the Council met according to adjournment.

The Committee on the proposed amendments to the constitution, made a detailed report of articles to be added to the constitution—which was read and accepted: and the same having been discussed, and several amendments made thereto, the Council adjourned until to-morrow morning.

*Wednesday, Oct. 27—9 o'clock A. M.*

The council met according to adjournment.

The Council took up the articles reported by the Committee on the proposed amendments to the constitution; and having gone through the same by paragraphs, and several amendments having been made thereto, was adopted as follows; and ordered to be engrossed, to be signed by the members, and proposed to the people as amendments to the constitution.

1st. There shall, hereafter, in lieu of the present Executive Council, be a Senate; which, with the House of Representatives, shall be a co-ordinate branch of the Legislature of the State of Vermont.

2d. The Representatives shall be elected, as is provided by the present Constitution. The Senate and House of Representatives shall constitute *the General Assembly of the State of Vermont.*

3d. The Senate shall be composed of *twenty-four* Senators, to be elected by the Freemen of each County respectively; the votes to be given for the whole number to be elected for such County, in the same manner as is provided in the election of Councillors; each County to be entitled to one, and the remainder to be apportioned to the several Counties, according to their population, agreeable to the last Census of the United States, regard always being had, in the apportionment, to the Counties having the greatest fraction. The several Counties shall, until after the next Census of the United States, be entitled to elect their Senators,

in the following proportion, to wit: Bennington County two—Windham County three—Rutland County three—Windsor County four—Addison County two—Orange County two—Chittenden County one—Caledonia County one—Franklin County two—Orleans County one—Essex County one—Grand-Isle County one—and Jefferson County one. And the persons having the greatest number of legal votes, shall be declared duly elected. The Legislature shall make a new apportionment of the Senators to the several Counties, after the taking of each Census of the United States; always regarding the above provisions in this Article.

4th. For the first election of Senators, after the adoption of this amendment, the Freemen of the several towns in each county, shall give their votes for the number of Senators apportioned to such county, at the same time; and under the same regulations, as is provided for the election of Councilors. And the Constable, or presiding officer, shall, in like manner, sort and count the said votes, and make two lists of the name of each person, with the number of votes given for each, annexed to his name; a record of which shall be made in the town clerk's office; and shall seal up such lists separately, and write on each the name of the town, and these words, "*Votes for Senators*;" one of which lists shall, by the presiding officer, be delivered to the representative for said town, to be transmitted to the President of the Senate; the other list, the said presiding officer shall deliver to the Clerk of the County Court for said County, within ten days; whose duty it shall be to sort and count said votes, and make a record of the same; a copy of which he shall transmit to the Senate; and shall also, on or before the first day of October then next, transmit to the person or persons having the greatest number of votes for Senator or Senators, a certificate of his or their election.



5th. The members of the Senate shall be elected for three years; and immediately after the first election, shall be divided by lot into three classes; the seats of the first class to be vacated at the end of the first year, and the seats of the second class at the end of the second year; and so on continually, to the end, that one third of the Senate may be elected annually.

6th. At the first session of the Legislature after organization of the Senate, provision shall be made, by law, directing the mode of giving in, sorting, counting, certifying, and returning, the votes for Senators; and for filling all vacancies, by ordering a new election in the County, or Counties, where such vacancy may happen, in the Senate, by resignation, or otherwise.

7th. The Senate shall have the like powers to decide on the elections and qualifications, and to expel any of its members, and to make its own rules, and appoint its own officers, as is provided in the case of the House of Representatives. A major part of the Senators shall constitute a quorum. The Lieutenant Governor shall be President of the Senate, except when he shall exercise the office of Governor; in which case, and when the office shall be vacant, and in the absence of the Lieutenant Governor, the Senate shall appoint one of its own members, President *pro tempore*. The Lieutenant Governor, when presiding in the Senate, shall have a casting, but no other vote.

8th. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. No person shall be convicted, without the concurrence of two thirds of the members present. Judgment in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under this State. But the party convicted shall never-



theless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

9th. The Governor and Lieutenant Governor shall be elected in the manner prescribed by the Constitution and laws of this State ; and shall hold their respective offices from the day of declaring their election, until the first day, inclusive, of the next annual session of the Legislature. The votes for Governor, Lieutenant Governor and Treasurer, shall be sorted and counted, and their elections declared, by a committee appointed by the Senate and House of Representatives. If there shall, at any time, be no due election by the Freemen, of Governor or Lieutenant Governor, the Senate, with the House of Representatives, shall, by joint ballot, elect to the office of Governor or Lieutenant Governor, as the case may be, one of the two candidates for those offices, respectively, for whom the greatest number of votes shall have been returned.

10th. No person shall be eligible to the office of Governor, Lieutenant Governor, Senator or Representative, unless he be a Freeman of this State, and have been five years a citizen of the United States ; and have resided in this State three years next before his election ; the last year of which, in case of a Senator, shall have been in the County, and in case of a Representative, in the town for which he shall be elected.

11th. No person shall be allowed to vote in any of the elections aforesaid, unless he be a citizen of this and the United States.

12th. The Governor shall be Captain General and Commander in Chief of the Militia of this State ; he shall commission all officers, and fill all vacancies in office, occasioned by death or otherwise, by commissioning some fit person or persons, as the case may require, to exercise the powers and perform the duties of such office, until the same

can be filled in the manner directed by law or this Constitution ; he may require the opinion in writing of the Judges of the Supreme Court, on any legal or constitutional question, relating to the powers and duties of his office ; and may also demand of any officers, in the executive department, information, or their opinion, on any subject relating to the duties of their respective offices.

13th. The Governor shall have power, after convictions, to grant pardons, for offences against this State, except in cases of impeachment and capital offences ; but he shall, in capital offences, have power, by granting reprieves, to suspend execution until after the next session of the Legislature ; in which cases the Legislature, only, shall have power to pardon.

14th. In addition to the powers herein before mentioned, and the ordinary powers and duties of the executive, prescribed by the Constitution and laws of this State, the Governor shall nominate, and by and with the advice and consent of the Senate, appoint all Judges in the Courts of Law and Chancery, Judges of Probate, Sheriffs, High Bailiffs, Justices of the Peace, and Major and Brigadier Generals. And also in like manner, to nominate and appoint all other officers for whose appointments provision shall not be otherwise made by law or this Constitution.

15th. The Representatives of the several Counties, shall, at every session of the Legislature, from time to time, in County Convention, recommend to the Governor suitable persons to be appointed Justices of the Peace, in the several towns in their respective Counties, when such appointments shall be necessary : And shall, in like manner, when the appointment of a Sheriff or High Bailiff, shall be necessary in any County, recommend two suitable persons, for each or either of said offices, as the case may be ; and the Governor shall nominate to



each office, respectively, one of the two persons recommended.

16th. The Governor shall have power, in case he deem it expedient, to call a special meeting of the Legislature.

17th. To the end that Laws, before they are enacted, may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, every bill which shall have passed the House of Representatives and Senate, shall, before it becomes a law, be presented to the Governor; if he approves, he shall sign it; if not, he shall return it, with his objections, in writing, to the House in which it originated; who shall enter the objections at large on their Journal, and proceed to reconsider it. If after such reconsideration, three fifths of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by three fifths of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill, shall be entered on the Journal, of each House respectively. If any bill shall not be returned by the Governor within five days, (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner, as if he had signed it, unless the Legislature, by their adjournment, within three days after the presentment of such bill, shall prevent its return; in which case it shall not become a law.

18th. There shall be established in this State, a Court of Chancery, distinct from the Courts of law, with general jurisdiction in causes properly determinable in equity.

19th. The Chancellor shall hold his office on the same tenure, and be removeable in the same man-



ner, as is provided in the case of Judges of the Supreme Court ; and shall in like manner, be secured in his compensation.

20th. The Judges of the Supreme Court ; shall hold their offices, respectively, during good behavior ; they shall, nevertheless, be removed from their respective offices, by a resolution of the Senate and the House of Representatives, assigning reasons for such removal ; and concurred by a majority of two thirds of each house.

21st. The Legislature shall, whenever it shall be deemed expedient, establish Circuit Courts of Common Pleas, in lieu of the County Courts, with a Chief Judge for each circuit.

22d. The Chief Judges of the Circuit Courts shall hold their respective offices on the same tenure, and be removeable in the same manner, as is provided in case of the Judges of the supreme Court.

23d. All other Judges of the County or Circuit Courts, and the Judges of Probate, shall hold their offices for five years ; and all Sheriffs, High Bailiffs, and Justices of the Peace, for three years, from the time of their appointment, respectively ; removeable nevertheless, as in the case of the Judges of the Supreme Court. Sheriffs shall be incapable of being reappointed to the same office, for three years next succeeding the expiration of the time for which they were respectively appointed.

24th. All elections and appointments to the legislature, and to offices under the Constitution, shall be annual, in all cases where provision is not otherwise made.

25th. No person shall be capable of holding, in this State, more than one of the following offices or places, at the same time, to wit ;—Governor, Lieut. Governor, Chancellor, Judge of the Supreme Court, Chief Judge of any Circuit Court, Representative or Senator in the Congress of the

United States, Treasurer of the State, Representative or Senator in the legislature of this State, Surveyor General, or Sheriff; nor shall any person holding any office of profit or trust under the authority of Congress, be capable of being elected a Senator or Representative in the State Legislature, or of holding any executive, judiciary, or military office, under this State.

26th. Neither House shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two Houses shall be sitting.

27th. The writ of *Habeas Corpus* shall in no case be suspended. It shall be considered a writ issuable of right; and the Legislature shall make provision to render it a speedy and effectual remedy, in all cases proper therefor.

28th. BE IT ORDAINED, That such parts and provisions only, of the Constitution of this State, established by convention, on the ninth day of July, one thousand seven hundred and ninety three, as are altered or superceded by any of the foregoing amendments, or are repugnant thereto, shall hereafter cease to have effect.

The foregoing proposed amendments having been adopted, the following resolutions was introduced by Mr. Marsh, and passed.

*In Council of Censors, Oct. 27, 1813.*

*Resolved*, two thirds of this Council concurring herein, that it is expedient to call a convention to meet at the State house in montpelier, on the day of            for the purpose of taking into consideration the proposed amendments to the Constitution, as agreed on by this Council.

Those who voted for said resolution are Messrs. Tichenor, Bailey, Bayleys, Chipman, Clark, Farrand, Hall, Jewett, Marsh, Strong and Temple—no one voting in the negative.

On motion, Messrs. Chipman and Temple were



appointed a committee to draft and report an ordinance, directing the mode of electing members of said convention.

The Council adjourned until to-morrow morning.

*Thursday, Oct. 28—9 o'clock A. M.*

The Council met pursuant to adjournment.

On motion of Mr. Tichenor,

*Resolved*, That a committee of two be appointed to report the articles in the constitution, that are in any manner altered or abolished, by the proposed amendments thereto.

Members chosen, Messrs. Chipman and Bayley.

Mr. Hall asked, and obtained leave of absence, from this day at noon, until the end of the session.

The petition of Joseph H. Ellis, complaining of the Judges of the Supreme Court, &c. was called up, and after a short discussion, the petitioner had leave to withdraw his petition.

The Council adjourned until 2 o'clock P. M.

At two o'clock the Council met agreeably to adjournment; and to give time to committees, adjourned until to-morrow morning.

*Friday, Oct. 29—9 o'clock A. M.*

The Council met according to adjournment.

Mr. Chipman from the committee appointed to report the articles in the constitution, that are in any manner altered or abolished, by the proposed amendments thereto;—made report;—

That in the first chapter of said constitution, entitled, "*A Declaration of the Rights of the State of Vermont*"—no article is altered, abolished or superseded, by any of the amendments proposed by this Council.

That in the second chapter of said constitution entitled, "*A plan or frame of Government*"—the following articles or sections, are altered, abolished or superseded, either in whole or part, to wit; the first, second, third, fifth, ninth, tenth, eleventh,



sixteenth, eighteenth, twenty-first, twenty-fourth, twenty-ninth, thirtieth, and thirty-ninth. All which is submitted, &c.

(Signed)

N. CHIPMAN,  
I. BAYLEY.

The president of this Council laid before the board  
"A statement of balances due the Treasury for taxes," as prepared by the Treasurer of the State, in the words and figures following, to wit:

## A STATEMENT OF BALANCES DUE THE TREASURY FOR TAXES.

<i>Bennington County.</i>					
Arlington	1810 tax	\$36 91	Fairlee	1811	14 53
Readsboro'	1807 l. tax	34 40	Newbury	1809	1 99
Sunderland	1807	93	Orange	1807	15 84
	1807 l.	7 54	Strafford	1807	17 56
	1808	2 83	Roxbury	1810	7 13
	1811	13 18	Tunbridge	1808	46 50
Woodford	1807 l.	50 41		1811	132 11
<i>Windham.</i>			Vershire	1809	33 74
Londonderry	1809	19 42		1811	58 53
	1810	27 51	<i>Chittenden.</i>		
<i>Rutland.</i>			Huntington	1807 l.	37 76
Castleton	1809	14 52	Shelburn	1807	23 95
Fairhaven	1811	26 40	<i>Caledonia.</i>		
Mountholley	1811	16 41	Waterford	1810	36 11
Orwell	1808	67	<i>Franklin.</i>		
<i>Windsor.</i>			Fairfield	1807	21 39
Barnard	1810	28 32	Bakersfield	1807 l.	40 42
	1811	19 35	Fletcher	1811	7 86
Cavendish	1809	45 84	Georgia	1810	71 46
	1810	27 07		1811	23 89
	1811	33 87	Huntsburgh	1811	29 43
Hartford	1808	153 31	Swanton	1811	39 37
Hartland	1809	10 59	St. Albans	1809	11 75
Pomfret	1810	13 39		1810	191 64
	1811	12 80	<i>Orleans.</i>		
Royalton	1801	61 37	Barton	1809	7 55
Norwich	1807	20	Derby	1807 l.	4 22
	1811	172 56	Duncansboro'	1807 l.	230 40
Sharon	1807 l.	18 23	Eden	1807 l.	149 69
Weathersfield	1811	152 87	Glover	1897 l.	50 40
Weston	1808	8 32	Holland	1807 l.	230 40
<i>Orange.</i>			Eden	1808	18 24
Brookfield	1810	13 84		1809	18 34

	1810	16 06	Duxbury	1810	1 10
Irasburgh	1807 l.	40 29	Montpelier	1811	208 27
Lutterloch	1808	1	Middlesex	1806	15 23
Morgan	1807 l.	119 68		1807	28 10
	<i>Essex.</i>			1811	24 97
Canaan	1807	19 83	Moretown	1807 l.	73 38
	1809	29 06		1809	40 89
	1810	31 07		1810	40 84
	1811	30 09		1811	37 68
Concord	1811	46 32	Plainfield	1806	83
Lunenburg	1809	2 48		1811	57 02
	1810	29 74	Waitsfield	1808	31 11
	<i>Grand-Is.</i>			1809	36 25
Alburgh	1807	2 45	Waterbury	1811	2 48
	<i>Jefferson.</i>				
Calais	1811	32 77			

*A statement of Balances in the several Sheriffs hands, viz.*

Gilbert Denison, Sheriff of Windham County, balance due on extents for the last tax \$180 98

This balance I expect will be settled before the Assembly adjourns.

U. W. Hyde, late Sheriff of Rutland County, balance due on extents rec'd 494 67  
said Hyde has been extented, and his bail have agreed to settle this balance.

William Slade, late Sheriff of Addison County, balance due on extents rec'd 1689 31

Daniel Staniford, late Sheriff of Chittenden County, balance due for extents, about 600 00

property has been put into the hands of Col. Harrington for collection to pay this balance.

Israel P. Dana, Sheriff of Caledonia County, for extents on the last tax 996 93  
this balance I expect will be settled before the Assembly adjourns.

Oliver Day, former Sheriff of Franklin County, balance due about 35 00

William Hewes, late Sheriff of Essex

County, balance due	extended	300 00
David Hibbard jun. present Sheriff of Essex County, extents for the last tax		415 84

this sum I expect will be settled before the Assembly adjourns.

Mr. Strong introduced the following resolution, which was read and passed, to wit:

*In Council of Censors, Oct. 29, 1813.*

*Resolved*, that a committee of two be appointed to report a suitable address to accompany the proposed amendments to the constitution.

Members chosen, Messrs. Marsh & Farrand.

The Council adjourned until to-morrow morning.

*Saturday Oct. 30—9 o'clock A. M.*

The Council met according to adjournment.

Mr. Marsh reported an address to accompany the proposed amendments to the Constitution—which was read and re-committed to the same committee for the purpose of making some additions and amendments thereto.

The Council adjourned until Monday morning next.

*Monday, Nov. 1—9 o'clock A. M.*

Mr. Chipman, from the Committee appointed to draft an ordinance, directing the mode of election of the members of the Convention, reported an ordinance for that purpose; which having been read and considered, and amended, passed in the following words, to wit:

## STATE OF VERMONT.

*In Council of Censors, November 1, 1813.*

This Council having agreed to propose certain amendments to the Constitution of this State, and having determined to call a Convention, to consider of such amendments: *Therefore*,

**IT IS ORDERED BY SAID COUNCIL,**

**THAT a Convention of the People of the State.**



of Vermont, shall meet at the STATE HOUSE, in *Montpelier*, on the first Thursday of July next, to consider of the amendments to the Constitution, proposed by this Council ; and to adopt the same, or such part of them, as the said Convention shall judge will be most conducive to the good government, peace and happiness of the good People of the State. And for the purpose of electing Members, to attend said Convention, the first Constable, or in his absence, the Town Clerk, or in his absence, the Select-men of each Town in this State, entitled to send a Representative to the General Assembly of this State, without further order, shall set up a notification, at such place or places, as shall have been appointed by the Inhabitants of their several towns, for notifying town meetings, at least twelve days before the last Tuesday of May next, warning the Freemen of their respective towns, to meet on the said last Tuesday of May next, at one of the o'clock afternoon, at the usual place of holding Freemen's Meeting in such town, for the purpose of electing a Delegate or Representative, to represent said town in said convention ; at the opening of which meeting, this Order shall be publicly read.

And the first Constable, or in his absence, the Town Clerk, or in their absence, one of the Select-men, or a Justice of the Peace of the same town, shall be the presiding officer of such meeting ; whose duty it shall be, to call on the Freemen of such town, from time to time, for the space of three hours, to give in their votes for a Delegate to represent such town in said Convention ; which votes shall be given and received in the same manner, and under the same regulations, as is by law provided in the case of the election of a Representative to the General Assembly ; at the expiration of which time, the votes for such Delegate or Representative, shall be by the said presiding officer, with

the assistance of the Town Clerk, sorted and counted; and if no person shall have a majority of all the votes, the said presiding officer shall notify the same; and call on the freemen as aforesaid, giving a reasonable time only for receiving such votes, until an election shall be made. And after an election shall be made as aforesaid, the presiding officer of such meeting shall give to the person elected, a certificate of the following tenor, to wit;—

*At a Freemen's Meeting, legally warned and holden at                      on the last Tuesday of May, 1814, A. B. was elected a Delegate, by a majority of the Freemen present, to represent the town of                      in Convention, to be holden at Montpelier, on the first Thursday of July next, for the purpose of taking into consideration certain amendments to the Constitution of this State, proposed by the Council of Censors in November, 1813.*

*Given under my hand at                      this                      day  
of                      A. D. 1814.*

C. D.                      } *First Constable, or  
                                      presiding officer,  
                                      as the case may be.*

Which certificate shall be a sufficient Credential of such person's election.

*Passed in Council of Censors, Nov. 1, 1813.*

ISAAC TICHENOR, *President.*

Attest, ROBERT TEMPLE, *Secretary.*

The Council took up the resolution for calling a Convention, passed the 27th Oct. 1813, for the purpose of filling the blanks appointing the time for said Convention to meet:—when it was voted that said blank be filled so that said Convention shall be directed to assemble on the first Thursday of July 1814.

Mr. Marsh, from the Committee appointed for that purpose, reported the address to the people, to accompany the proposed amendments to the Constitution, with additions;—which having been read and amended, passed in the words following to wit:



## TO THE PEOPLE OF THE STATE OF VERMONT.

The Council of Censors, chosen by the Freemen on the last Wednesday of March, in the year of our Lord one thousand eight hundred and thirteen, regard the power of proposing alterations and amendments to the Constitution, and calling a Convention to consider the expediency of their adoption, as the most important trust confined to them by the people.

The Council has taken this subject into serious consideration; attending both to the defects in the Constitution, and the remedies which would be most likely to secure the rights, and promote the happiness and prosperity of the people.

We have not been insensible of the difficulties attending innovations upon political systems, in times like the present, when the whole civilized world is in a state of convulsion; and when our own country and State are distracted by great political divisions—yet, considering that we were not appointed to act for any party or faction, but for the good of the whole community; and though we are not wholly of the same opinion or party in politics, we unanimously agree in recommending the following amendments, as being calculated to secure, more effectually, the inestimable rights of civil liberty to individuals, and, at the same time, by defining, more distinctly, the powers of the several branches of the Government, to render it more permanent, as well as more energetic in its operations.

The experience of every age has taught mankind the necessity of vesting portions of the supreme legislative power of the State in the hands of several bodies of men, in order to form proper checks upon the hasty and undue exercise of its authority. We have thought the want of this a great defect in our Constitution; and have there-



fore proposed the introduction of a Senate, as a co-ordinate branch of the Legislature.

The people are, by the provisions of the present Constitution, represented in the most numerous branch of the Legislature, by persons annually chosen by the Freemen of each town, without regard to the number of its inhabitants; by means of which, there is great want of equality in the representation of the people, in that branch of the Legislature. On this account the Council thought that the representation in the Senate should be apportioned among the several Counties, as near as might be, according to the number of inhabitants; and, at the same time, securing to each County, its separate right of representation in that body. The representation from the northern Counties, in the House of Representatives, is at present more numerous, in proportion to their inhabitants, than from the other parts of the State. By the appointment of the Senators, among the several Counties, now proposed, it is believed a nearer approach is made to equality:

It has been thought expedient that the Senators should be elected for three years, and yet be so classed, as that one third of the whole number should be chosen annually; to the end that there might be always a quorum of old members, well acquainted with the affairs of state, and the various persons holding offices in the different parts thereof, and be thereby better qualified to judge of nominations made to them for appointments; to add weight and stability to their proceedings; and, in general, to enable them more understandingly to discharge the duties of their station, to the satisfaction, and for the benefit of the community.

It is too obvious to need proof, that bodies of men are unstable in proportion as they are numerous; and conduct without due consideration, and regard to the public interest, in proportion as their

responsibility is shared by numbers. We have, therefore, thought it advisable, to confer the power of nomination to office, on the Governor; who, by his annual election, is immediately responsible to the people; and the power of controuling appointments to office, in pursuance of his nomination, on the Senate, the less numerous branch of the Legislature. The Council hopes, by these means, to leave the choice of the members of the Legislature more free from the influence of designing men; who may often promote the election of individuals, in order that themselves, in their turn, may be promoted: And also to relieve the Legislature itself from the corrupting influence of a too frequent exercise of the power of appointment; as well as to save much time of the Legislature, and expense to the State, now wasted in the present mode of electing officers.

The frequent election of the Judges of the Courts of Law and Chancery, it is believed, must unavoidably have a tendency to make them feel dependant on their electors, and other influential members of society; and to prevent the unbiassed exercise of their opinions, in the decision of causes between men high in office or influence, and the members of the lower and more ordinary classes of society; and thereby corrupt the fountain, as well as the streams of justice. The members of the Council, therefore, thought it their duty to devise, and reccommend, an amendment of the Constitution, rendering the Judiciary so far independent, as to place them above the influence of popular party, or personal motives; and yet liable to removal for reasonable objections, which do not amount to cause of impeachment. They have therefore proposed so to amend the Constitution, as to have them appointed during good behavior; yet removable by the resolution of both houses of the Legislature, passed by two thirds of the members of



each; as being the best medium between absolute independence, and an entire dependance on the representatives of the people. The ordinary Judges of the Courts of common jurisdiction, it has been thought expedient, should hold their offices for the term of five years, removeable in the same manner.

Chancery powers cannot, from their nature, be accurately defined or limited; and are therefore, in some measure, dangerous; yet, when reduced to system, by practice and precedent, highly, useful, important and necessary. The inconvenience of the exercise of those powers, by the Judges of a court of common law jurisdiction, has been unhappily experienced by the suitors in our Courts. Great delay in causes in Chancery has been occasioned by want of time, and hurry of business, on the law side of the Court. Necessary rules and orders for bringing causes to a hearing and decision, cannot be adopted and maintained in our present system: And the unavoidable precipitancy, in the proceedings, forbids the expectation of the attainment of correct decisions, by the proper discussion of the parties, and due deliberation of the Court. The Council has, therefore, recommended the establishment of a Court, with Chancery powers, distinct from the Courts of law.

We have taken care not to have a magistracy odious to the people, by requiring their immediate representatives, in county convention, from time to time, to recommend to the Governor, for his nomination to the Senate, suitable persons for Justices of the Peace, Sheriffs and High Bailiffs, in their respective Counties.

The Council has made the several proposed amendments distinct from each other, to the end, that any one, or more of them, might be either adopted, or rejected, without adopting or rejecting the whole; as might, in their opinion, be most conducive to the welfare of the people.



Sincerely believing that the amendments proposed will, if adopted, contribute to the security of the rights and happiness of the people, the permanency of the government, and the facility of the exercise of its various functions, we cordially and earnestly recommend them to your dispassionate consideration.

The foregoing address having been adopted, was signed by the following members, to wit;

ISAAC TICHENOR,  
NATHANIEL CHIPMAN,  
DANIEL FARRAND,  
EBENEZER CLARK,  
ELIJAH STRONG,  
CHARLES MARSH,  
WILLIAM HALL, jun.  
LUTHER JEWETT,  
ISAAC BAYLEY,  
NICHOLAS BAYLIES, &  
ROBERT TEMPLE.

The Council adjourned until two o'clock, P. M.

At two o'clock P. M. the Council met pursuant to adjournment.

On motion of Mr. Marsh, it is ordered, that the following caption be prefixed to the articles proposed to be added to the Constitution, to wit:

*"Articles of amendment, alteration and addition to the Constitution of the State of Vermont, proposed by the Council of Censors, on the first day of November, 1813."*

And,

On motion of Mr. Marsh, the following resolution was adopted, and ordered to be signed by the President and Secretary, and to be annexed and immediately follow the articles proposed to be added to the Constitution:

*"In Council of Censors, Nov. 1, 1813."*

*Resolved, That the foregoing amendments, al-*

terations, and additions to the Constitution, consisting of *twenty-eight* articles, be proposed to the people for their consideration and adoption.

On motion of Mr. Marsh,

*Resolved*, That those articles in the Constitution which are proposed to be annulled, altered or abolished, as reported by the committee, be published with the following caption prefixed thereto, as follows:

*Articles of the Constitution of the State of Vermont, proposed to be amended, altered or abolished, by the Council of Censors.*

ART. 1. The Commonwealth or State of Vermont shall be governed hereafter by a Governor, (or Lieutenant Governor,) Council, and an Assembly of the Representatives of the Freemen of the same, in manner and form following:

ART. 2. The Supreme Legislative power shall be vested in a House of Representatives of the Freemen of the Commonwealth or State of Vermont.

ART. 3. The Supreme Executive power shall be vested in a Governor, or, in his absence, a Lieutenant Governor and Council.

ART. 5. A future Legislature may, when they shall conceive the same to be expedient and necessary, erect a Court of Chancery, with such powers as are usually exercised by that Court, or as shall appear for the interest of the Commonwealth; *Provided*, they do not constitute themselves the Judges of said Court.

ART. 9. The Representatives so chosen (a majority of whom shall constitute a quorum for transacting any other business than raising a State tax, for which two thirds of the members elected shall be present;) shall meet on the second Thursday of the succeeding Oct. and shall be styled *The General Assembly of the State of Vermont*: They shall have



power to choose their Speaker, Secretary of State, their Clerk, and other necessary officers of the House ; sit on their own adjournments ; prepare bills, and enact them into laws ; judge of the elections and qualifications of their own members : They may expel members, but not for causes known to their constituents antecedent to their election ; they may administer oaths and affirmations in matters depending before them ; redress grievances ; impeach State criminals ; grant charters of incorporation ; constitute towns, boroughs, cities and counties : They may annually, on their first session after their election, in conjunction with the Council (or oftener if need be) elect Judges of the Supreme and several County, and Probate Courts, Sheriffs, and Justices of the Peace ; and also, with the Council, may elect Major-Generals and Brigadier Generals, from time to time, as often as there shall be occasion ; and they shall have all other powers necessary for the Legislature of a free and sovereign State. But they shall have no power to add to, alter, abolish, or infringe, any part of this Constitution.

ART. 10. The Supreme Executive Council of this State shall consist of a Governor, Lieutenant Governor, and twelve persons, chosen in the following manner, to wit ;—The Freemen of each town shall, on the day of the election for choosing Representatives to attend the General Assembly, bring in their votes for Governor, with his name fairly written, to the Constable, who shall seal them up and write on them "*Votes for Governor,*" and deliver them to the Representative chosen to attend the General Assembly. And at the opening of the General Assembly there shall be a committee appointed, out of the Council and Assembly, who, after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort, and count the votes for the Governor, and declare the person



who has the major part of the votes, to be Governor for the year ensuing. And if there be no choice made, then the Council and General Assembly, by their joint ballot, shall make choice of a Governor. The Lieutenant Governor, and Treasurer, shall be chosen in the manner above directed. And each Freeman shall give in twelve votes for twelve Councillors, in the same manner, and the twelve highest in nomination shall serve, for the ensuing year, as Councillors.

ART. 11. The Governor, and in his absence the Lieutenant Governor, with the Council, (a major part of whom, including the Governor or Lieutenant Governor, shall be a quorum to transact business;) shall have power to commission all officers, & also to appoint officers, except where provision is or shall be otherwise made by law, or this frame of government; and shall supply every vacancy in any office, occasioned by death, or otherwise, until the office can be filled in the manner directed by law, or this Constitution:—

They are to correspond with other States; transact business with officers of Government, civil and military, and to prepare such business as may appear to them necessary to lay before the General Assembly: They shall sit as Judges to hear and determine on Impeachments, taking to their assistance, for advice only, the Judges of the Supreme Court; and shall have power to grant pardons, and remit fines, in all cases whatsoever, except in treason and murder, in which they shall have power to grant reprieves, but not to pardon until after the end of the next session of the Assembly; and except in cases of impeachment, in which there shall be no remission or mitigation of punishment; but by act of legislation: They are to take care that the laws be faithfully executed: They are to expedite the execution of such measures as may be resolved upon by the General Assembly; and they

may draw upon the Treasury for such sums as may be appropriated by the House of Representatives: They may also lay embargoes, or prohibit the exportation of any commodity for any time not exceeding thirty days, in the recess of the House only. They may grant such licences as shall be directed by law; and shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be Captain General and Commander in Chief of the forces of the State, but shall not command in person except advised thereto by the Council, and then only so long as they shall approve thereof. And the Lieutenant Governor shall, by virtue of his office, be Lieutenant General of all the forces of the State. The Governor, or Lieutenant Governor, and the Council, shall meet at the time and place with the General Assembly: The Lieutenant Governor shall, during the presence of the Commander in Chief, vote and act as one of the Council; and the Governor, and in his absence the Lieutenant Governor, shall, by virtue of their offices, preside in Council, and have a casting, but no other vote. Every member of the Council shall be a Justice of the Peace for the whole State, by virtue of his office. The Governor and Council shall have a Secretary; and keep fair books of their proceedings, wherein any Councillor may enter his dissent, with his reasons to support it. And the Governor may appoint a Secretary for himself and his Council.

ART. 16. To the end that laws before they are enacted may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills which originate in the Assembly shall be laid before the Governor and Council, for their revision and concurrence, or proposals of amendment, who shall return the same to the Assembly, with their proposals of amend-



ment, if any, in writing ; and if the same are not agreed to by the Assembly, it shall be in the power of the Governor and Council to suspend the passing of such bills until the next session of the Legislature. *Provided*, that if the Governor & Council shall neglect or refuse to return any such bill to the Assembly, with written proposals of amendment, within five days, or before the rising of the Legislature, the same shall become a law.

ART. 18. No person shall be elected a Representative until he has resided two years in this State, the last of which shall be in the town for which he is elected.

ART. 21. Every man of the full age of twenty-one years, having resided in this State for the space of one whole year next before the election of Representatives, and is of a quiet and peaceable behaviour, and will take the following oath or affirmation, shall be entitled to all the privileges of a Freeman of this State :—

*“You solemnly swear (or affirm) that whenever you give your vote or suffrage touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favor of any man.”*

ART. 24. Every officer of State, whether Judicial or Executive, shall be liable to be impeached by the General Assembly, either when in office, or after his resignation ; or removal, for mal-administration. All impeachments shall be before the Governor, and Council, who shall hear and determine the same, and may award costs ; and no trial or impeachment shall be a bar to a prosecution at law.

ART. 26. No person in this State shall be capable of holding or exercising more than one of the following offices at the same time, viz. Governor, Lieutenant Governor, Judge of the Supreme Court,



Treasurer of the State, Member of the Council, Member of the General Assembly, Surveyor-General, or Sheriff. Nor shall any person, holding any office of profit or trust, under the authority of Congress, be eligible to any appointment in the Legislature, or of holding any executive or judiciary office under this State.

ART. 30. No person shall be eligible to the office of Governor or Lieutenant Governor, until he shall have resided in this State four years next preceding the day of his election.

ART. 39. Every person, of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land, or other real estate; and after one year's residence shall be deemed a free denizen thereof, and entitled to all rights of a natural born subject of this State, except that he shall not be capable of being elected Governor, Lieutenant Governor, Treasurer, Councillor, or Representative in Assembly, until after two years residence.

And,

On motion of Mr. Marsh, the following resolution was adopted, and ordered to be annexed and immediately follow the said articles, and to be signed by the President and Secretary:

*In Council of Censors, Nov. 1, 1813.*

*Resolved*, that the first, second, third, fifth, ninth, tenth, eleventh, sixteenth, eighteenth, twenty-first, twenty-fourth, twenty-sixth, thirtieth, and thirty-ninth articles, in the second chapter of the Constitution of the State of Vermont, intitled "*A plan or frame of Government*"—be published with the amendments proposed by the Council, as being either altered, amended or abolished, either in whole or in part, by the said proposed amendments.

Mr. Baylies introduced the following resolution, which was read and adopted.

*In Council of Censors, Nov. 1, 1813.*

*Resolved*, that twelve hundred copies of the proposed amendments and alterations of the Constitution, and articles therein to be amended, altered or abolished, together with the address of the Council, and their resolutions concerning the same, be forthwith printed; and be distributed among the people, as the house of Representatives may direct.

And also, *Resolved*, that copies of the doings of the Council of Censors, in relation to the alterations and amendments of the Constitution, be transmitted by the Secretary as soon as may be, to his Excellency the Governor, to be laid before the General Assembly.

Mr. Bayley was appointed to make up the debenture of the Council of Censors.

The Council adjourned until to-morrow morning.

*Tuesday, Nov. 2, 9 o'clock A. M.*

The Council met according to adjournment.

On motion, Mr. Marsh was appointed to prepare a final address to the people, and to report the same at the next session of this Council.

On motion of Mr. Marsh, Mr. Hall was added to the committee to enquire into the expenditure of public money—said committee to report at the next session.

On motion,

*Resolved*, that when the Council adjourn, they will adjourn to meet at the Court-House in Middlebury, on the third Tuesday of January next.

*Voted*, that the President of this Council be requested to remain in this town, until the proposed amendments to the Constitution, with the address to the people, &c. shall have been printed, for the purpose of inspecting the proof-sheet.

The Council then adjourned to meet at Middlebury on the third Tuesday of January next.

Agreeably to the adjournment of the Council of Censors, several of the members assembled at Middlebury on the third Tuesday of January, A. D. 1814—but a quorum not appearing, adjourned until to-morrow, at 10 o'clock A. M.

*Wednesday, Jan. 19, 1814—10 o'clock A. M.*

Several members of the Council met according to adjournment ;—but a quorum not yet having appeared, adjourned until to-morrow, at 10 o'clock A. M.

*Thursday, Jan. 20, 10 o'clock A. M.*

The Council met according to adjournment—and a quorum of the members appeared.

The President of the Council being absent, Mr. Marsh was appointed President *pro tempore*.

The following resolution was introduced by Mr. Baylies, read and adopted :

*In Council of Censors, Jan. 20, 1814.*

*Resolved*, that the Secretary of this board procure 750 copies of the Journal of this Council to be printed : and that the same be distributed by the several sheriffs, as follows, to wit : two to the Governor, five to the Secretary of State, two to each town-clerk for the use of the town, and two hundred and twenty to be by the Sheriff of Jefferson County distributed among the members of the Convention, when assembled in Montpelier—and two to each member of this Council.

The Council, after having had under consideration the subject of the expenditure of public money, adjourned until to-morrow, at 10 o'clock, A. M.

*Friday, Jan. 21, 1814, 10 o'clock A. M.*

The Council met pursuant to adjournment.

The following resolution was introduced and passed :

*In Council of Censors, Jan. 21, 1814.*

*Resolved*, that the Secretary of this Council be directed to transmit to his Excellency the Gover-



nor of this State, a certified copy of the articles proposed to be added to the Constitution, with a request that he will be pleased to lay the same before the Convention, to be holden at Montpelier on the first Thursday of July next.

The Council, after having had under consideration the subject of the expenditure of public money, adjourned until 10 o'clock to-morrow morning.

*Saturday, Jan. 22, 1814, 10 o'clock A. M.*

The Council met according to adjournment.

The Hon. Isaac Tichenor, President of the Council, appeared and took the chair.

Having had under consideration the subject of the expenditure of public money, and the several duties assigned them by the Constitution—adjourned until Monday morning next, at 8 o'clock.

*Monday, Jan. 24, 1814, 8 o'clock A. M.*

The Council met according to adjournment.

Mr. Marsh, from the committee appointed for that purpose, reported the following address to the people;—which having been read, was adopted, and ordered to be signed by the President and Secretary, and published.

TO THE PEOPLE OF

THE STATE OF VERMONT.

The council of censors deem it their duty to lay before you a concise view of their proceedings on the various subjects which have occupied their attention during the year past.

It will be recollected that the constitutional duties and powers of the council of censors is comprised summarily in the following words found in the 43d Sec. of the constitution, "whose duty it shall be to enquire whether the constitution has been preserved inviolate in every part during the last septenary—whether the legislative and executive branches of the government have performed their duty as guardians of the people, or assumed to themselves or exercised other or greater powers than they are entitled to by the constitution.

"They are also to enquire whether the public taxes have been justly laid and collected in all parts of this commonwealth. In what manner the public monies have been disposed of, and whether the laws have been duly executed.

"For these purposes they shall have power to send for persons,

papers, and records—they shall have authority to pass public censure, to order impeachment, and to recommend to the legislature the repealing such laws as shall appear to them to have been passed contrary to the principles of the constitution.

The said council of censors shall also have power to call a convention to meet within two years after their setting, if there appears to them an absolute necessity of amending any article in the constitution which may be defective—Explaining such as may be thought not clearly expressed—and of adding such as are necessary for the preservation of the rights, and happiness of the people.” These several subjects, and the conduct of the different officers of government in relation to them have passed in review before us, and occupied our serious consideration. We deem it but justice to say, that in general, the various departments and officers of government, have, during the last septenary, in the exercise of their various functions, kept within the pale of the constitution; yet, without intending to cast any odium on any persons, or party, we must observe, that sundry acts of the legislature of this state, passed at the session thereof in October, 1812, are violations of the constitutions of this, and the United States; and that the legislature in passing them, have not performed their duty as guardians of the people; but have assumed to themselves and exercised greater powers than they were entitled to by the constitution. The acts alluded to are the act entitled “An act directing the deed of Job and Theoda Wood to be given in evidence” passed the 20th of Oct. 1812—the act intitled “an act to prevent intercourse with the enemies of this and the U. S. on the northern frontier,” passed the 6th of Nov. 1812—and the act entitled “an act suspending civil process against the persons and property of the officers and soldiers of this state, while in the service,” passed the 6th of Nov. 1812. These several acts the council has recommended to the legislature to repeal; the reasons for such recommendation may be seen at large in our journals. The council has had the satisfaction to notice, that the two last named acts have been accordingly repealed.

Nothing appears from the enquiry we have been able to make, but that the public taxes have been justly laid and collected in all parts of the state.

We have also inquired into the expenditure of public monies; and though we think the legislature have, in many instances, during the last septenary, by special acts, granted and appropriated considerable sums incautiously, and to an unnecessary amount; yet we do not think the abuses have been so flagrant, as to call for any particular animadversion of this board.

We have, in a former address accompanying the proposed amendments to the constitution, noted in brief, our reasons for recommending their adoption by the people. We now add the following:



It is of much importance that the people should be acquainted personally with those to whom they commit important official trusts. The number of officers who are to be chosen by a general vote of all the freemen, should therefore be diminished as much as may be. By substituting a senate for the executive council, and having the members chosen by the freemen of the respective counties, the candidates will be more immediately known to all who are to vote for them. If the amendments are adopted, there will be no officers of the state government, except the governor, and treasurer, to be chosen by a general ticket.

There is no principle of government more difficult to provide for, satisfactorily, than that of fixing the power of appointment to office, in hands where it will not be liable to abuse. In order to this, it is necessary to have it confided to persons immediately responsible to the people. No officer is more so than the governor. He is annually elected by the whole people, and will of course feel the influence of every powerful motive to nominate such men to office, as will render his administration acceptable to the people. In the appointment of county officers, it may be supposed that the senators of each county will have great influence, and will for that reason, as they will be deemed in some measure responsible to the people of their respective counties, be careful to promote the best men to office.

As the officers of government are now chosen by the joint ballot of the executive council and house of representatives, there is little or no responsibility to the people. The people as a body, can call no man to account, (by leaving him out of office,) as they know not which individual has incurred the blame.

Notwithstanding we think that judges should generally hold their offices during good behaviour, yet there may be exceptions to this rule. Judges may by age and imbecility, become incompetent to the discharge of their official duties, without being liable to impeachment. We have therefore provided for their removal, by the resolutions of the two branches of the legislature, concurred in by two thirds of each house.

The legislative in all governments, is the supreme power of the state; and this alike, whether it be vested in the people themselves, their representative body, or in the monarch; accordingly in despotic governments the tyrant always takes care to have his judges dependant on himself; and by this provision, he necessarily holds the lives and fortunes of his subjects entirely under his controul. In like manner those meteors, the republics of ancient times, which appeared indeed for a little time, and then vanished, made their judges dependant immediately on the people; thus securing in themselves the seeds of their dissolution;—and having no independent judiciary to withstand the violence of popular factions and individuals, they soon became a prey to themselves. It is easy to perceive, that the principle of dependence wherever it may rest,



will have the same general tendency, which is towards partiality : —And partiality in the judiciary is of all things the most pernicious ; as it tends to the perversion of justice between individuals, the insecurity of civil liberty, and ultimately, to the dissolution of the government ; and to the consummation of despotism in the *assumption of supreme power by some aspiring individual*. Why do our laws, in conformity with the dictates of common sense, prohibit persons from judging between their relatives, and others ? Is it not because they are dependant upon, or feel some bias towards one of the parties ? and is not the principle, the same in many cases, which continually arise for adjudication in our courts of law and chancery, in their present dependant situation ? They are dependant on the legislature ; and of course on the dominant party, and leading members of that body. If a person obnoxious to the ruling party, or some powerful individual of such party, be prosecuted for a supposed offence against the laws of community, can it be expected that the judges, thus dependant on such party or individual, can act in this case with that impartiality, which the laws of God and man require ? If not, where is our security ? Suppose a civil action depending between a popular leader in the prevailing party, and one of the opposite party, or an obscure member of society, the friendless widow, or helpless orphan ; can there be that security for an impartial decision, as if no such dependance existed ? Surely this will not be pretended.

We must take human nature, and make constitutions and laws for its regulation and government, as we find it to be. If the judges hold their offices during *good behaviour*, that is, while in the exercise of their official duties, they conduct with fairness, impartiality, and faithfulness, will not their motives, even if they are bad men, be on the side of a correct, and regular discharge of their official duties ? Will they not say, “it is for the want of this only, that we can be turned out of office ? If we are honest and faithful, will not a majority of the people and of the legislature, justify our conduct, and support us in office from the violence of party ?”

History and experience teach us, that in all those states where the judiciary has been by the constitution rendered independant of the other branches of the government, and even of the people themselves, civil liberty has been preserved inviolate ; and the decisions in civil causes have inspired the utmost confidence in that important department of the government. The knowledge of this truth induced the sages, who framed the constitution of the United States, as well as the people of all our sister states, except Rhode Island and Connecticut, to incorporate this important provision into their respective constitutions. Accordingly, we find in our sister states, that the judges enjoy the entire confidence of all political parties. So also it is with the courts of the United States. No one thinks of enquiring into the political character of

the judge by whom he is to be tried, in order to ascertain the probable result of the controversy in which he is engaged. Can this be said of our own judicial proceedings in the court of the highest jurisdiction, in this state? And if not to what is it to be imputed, but to the dependant situation of the admintstrators in that tribunal? It is of great importance not only that justice should be done, but that the suitors should feel satisfied, that their trials are impartially conducted.

It will be observed, that by the last article of the proposed amendments, "it is ordained, that such parts and provisions *only*, of the constitution of this state, as established by convention on the 9th of July, 1793, as are altered or superceded by the foregoing amendments, or are repugnant there to, shall cease to have effect."—The consequence is, that not only the several articles, but even parts of articles or provisions of that instrument, which are not contravened by any of the proposed amendments, will still be in force.

We now close the important labors assigned to us by the constitution, in the hope, that our fellow citizens will extend to us the charity to believe, that in the discharge of our duties, our sole object has been to promote the happiness of the people, and to secure their rights;—uninfluenced by any party or local views whatever; being fully persuaded, that in the establishment of fundamental principles, the permanent good of the whole community ought and will be consulted, independent of all party and transient considerations.

By order of the council.

ISAAC TICHENOR, *President.*

ROBERT TEMPLE, *Secretary,*  
Middlebury, January 24, 1814.

No other business appearing to require the attention of the Council of Censors, they adjourned without day.

I hereby certify, that the foregoing is a true Journal of the Council of Censors, at their several sessions in June and October, 1813, and January 1814—as prepared for publication by order of said Council.

R. TEMPLE, *Secretary.*







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